

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS**

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HANOVER LLOYDS INSURANCE COMPANY, :  
and UNITED FIRE & CASUALTY COMPANY, :

Plaintiffs, :

v. :

DONEGAL MUTUAL INSURANCE COMPANY, :  
d/b/a MOUNTAIN STATES INSURANCE :  
GROUP, :

Defendant. :

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CASE NO. 3:22-cv-00162

JUDGE

**DONEGAL’S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

1. Pursuant to 28 U.S.C. §§ 1332 and 1441, and in compliance with 28 U.S.C. §1446, Donegal timely removes this civil state court action brought by Hanover Lloyds Insurance Company and United Fire & Casualty Company (“Plaintiffs”) to the United States District Court for the Western District of Texas, El Paso Division. Prior to removal, the civil action is pending in the 205th Judicial District Court of El Paso County, Texas as Cause No. 2022-DCV-0871; *Hanover Lloyds Insurance Company and United Fire & Casualty Company v. Donegal Mutual Insurance Company d/b/a Mountain States Insurance Group* (the “State Court Action”).

2. Removal to the United States District Court for the Western District of Texas based on diversity jurisdiction is proper because:

- i. Plaintiff Hanover Lloyds Insurance Company is a New Hampshire corporation with a principal place of business in Worcester, Massachusetts.
- ii. Plaintiff United Fire & Casualty Company is an Iowa corporation with a principal place of business in Cedar Rapids, Iowa.
- iii. Donegal is a non-resident insurance company and a Pennsylvania corporation with a principal place of business in Pennsylvania. Mountain States Insurance Group is a trade name used by Donegal that refers to a group of companies.
- iv. The District Court of the United States has original subject matter jurisdiction (diversity) of this action because (a) this is a civil action between citizens of different states; and (b) the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs;
- v. This Notice of Removal is being filed within thirty days after April 6, 2022, the date on which Donegal was served with Plaintiffs' Original Petition; and
- vi. The United States District Court for the Western District of Texas, El Paso Division, is the District Court of the United States for the District and Division embracing the place where the State Court Action was filed.

28 U.S.C. §1332(a); 28 U.S.C. §1441(a); 28 U.S.C. §1441(b); 28 U.S.C. §1446(a); 28 U.S.C. §1446(b).

**STATEMENT OF GROUNDS FOR REMOVAL**

**A. Civil Action Between Citizens of Different States**

3. Plaintiff Hanover Lloyds Insurance Company is a New Hampshire corporation<sup>1</sup> with a principal place of business in Worcester, Massachusetts.

4. Plaintiff United Fire & Casualty Company is an Iowa corporation with a principal place of business in Cedar Rapids, Iowa.

5. Donegal is a non-resident insurance company and a Pennsylvania corporation with a principal place of business in Pennsylvania. Mountain States Insurance Group is a trade name used by Donegal that refers to a group of companies.

**B. Matter in Controversy Exceeds \$75,000, Exclusive of Interest and Costs**

6. The matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs. Plaintiffs seek a declaration from the Court that Donegal has a duty to defend its insured Texas Electrical Contractors as to the third-party petition in underlying and that Plaintiffs are entitled to reimbursement of the defense costs that have been incurred in providing a defense to Texas Electrical Contractors. Plaintiffs also seek recovery of attorney's fees. Plaintiffs further assert alternative claims for contribution and/or equitable subrogation.

7. Based on the nature of the complaint and the recovery sought, the amount in controversy at issue in the claims exceed \$75,000, exclusive of interest and costs.

**C. Original Subject Matter Jurisdiction Pursuant to 28 U.S.C. §1332(a)/Removal is Proper Pursuant to 28 U.S.C. §§1441(a) and 1441(b)**

8. Because this civil action is between citizens of different states and the matter in controversy exceeds \$75,000.00, exclusive of interest and costs, the District Courts of the United

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<sup>1</sup> Donegal believes the party allegation contained in the Original Petition asserting that Hanover Lloyds is a Texas corporation is a typographical error as Donegal has not found any evidence that it is a domestic Texas entity.

States have original subject matter jurisdiction of this action. 28 U.S.C. §1332(a). Furthermore, Donegal is not a citizen of Texas. Thus, removal is proper pursuant to 28 U.S.C. §1441(a) and 28 U.S.C. §1441(b).

### **ATTACHMENTS**

9. The items required by 28 U.S.C. §1446(a) are attached hereto as:

- Exhibit 1: Plaintiffs' Original Petition with summons
- Exhibit 2: Donegal's Original Answer

10. There are no pending motions in the State Court Action.

11. No jury demand has been made.

### **NOTICE TO ADVERSE PARTIES/ FILING WITH CLERK OF STATE COURT**

13. Pursuant to 28 U.S.C. §1446(d) and promptly after the filing of the original Notice of Removal, Donegal gave written notice of removal to all adverse parties and filing a copy of this Notice of Removal with the clerk of the 205th Judicial District Court of El Paso County, Texas—the court in which the State Court Case was filed.

### **CONCLUSION**

14. For the stated reasons, Donegal removes the State Court Action to the United States District Court for the Western District of Texas, El Paso Division.

Respectfully submitted,

**JOHNSON DELUCA KURISKY & GOULD**  
A Professional Corporation

By: /s/ Millard A. Johnson

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**ATTORNEYS FOR DONEGAL MUTUAL  
INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 5<sup>th</sup> day of May 2022, the foregoing was electronically filed through the CM/ECF system, which caused participating CM/ECF counsel to be served with same by electronic means, and was emailed on the same day to the following counsel of record:

**Via e-mail: [dawn.hansen@tbjbs.com](mailto:dawn.hansen@tbjbs.com) & [Sheila.waite@tbjbs.com](mailto:Sheila.waite@tbjbs.com)**

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